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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,679	10/18/2006	Volker Seyfried	LASP:131 US	2408
24041 7590 01/25/2010 SIMPSON & SIMPSON, PLLC 5555 MAIN STREET WILLIAMSVILLE, NY 14221-5406				
EXAMINER SHAFFER, RICKY D				
ART UNIT 2872		PAPER NUMBER		
MAIL DATE 01/25/2010		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,679

Applicant(s)

SEYFRIED, VOLKER

Examiner

Ricky D. Shafer

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 2-9, 13-20 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 10-12, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 10-12 are rejected under 35 U.S.C. 102(c) as being anticipated by Moon et al ('277).

Moon et al discloses an optical device comprising a first light beam (2) from a first direction; a second light beam (3) from a second direction different than said first direction (see figures 3, 4, 9A, 19 and 27); a dispersive element (24) operatively arranged to split said first light beam from said first direction into various wavelengths (see column 3, lines 11-24 and lines 44-51 and column 9, lines 7-16); an imaging optic (28) and a microstructured element (30, 252) operatively arranged at a cleavage plane (see figures 3, 4, 9A, 19 and 27), wherein said cleavage plane is defined by said dispersive element (24) and said imaging optic (28), said cleavage plane defining a position for said various wavelengths, wherein said microstructured element is capable of being operatively arranged to deflect said first light beam (2) from said first direction and at least said second light beam (3) from said second direction (see figures 3, 4, 9A, 19 and 27), said light beams focused via said imaging optic (28) on positions corresponding to their respective wavelength and to said dispersive element (see figures 3, 4, 9A, 19 and 27), wherein said dispersive element is operatively arranged to collinearly unite said light beams (see column 8, line 5 to column 9, line 14), wherein the microstructured element comprises mirrored surfaces

of different inclinations (see figures 6b and 15a-17), wherein the microstructured element comprises a micromirror array (84) or micro-electromechanical mirror (82, 84). Note figures 3-9c, 15a-22 and 27 along with the associated description thereof.

3. Claims 1, 10-12, 21 and 22 are rejected under 35 U.S.C. 102(c) as being anticipated by Yokoi ('484).

Yokoi discloses a microscope comprising an optical device comprising a first light beam (65a, 65b) from a first direction; a second light beam (65c) from a second direction different than said first direction (see Fig. 9); a dispersive element (67) operatively arranged to split a first light beam from a first direction into various wavelengths (see column 19, line 63 to column 20, line 8); an imaging optic (68) and a microstructured element (41) operatively arranged at a cleavage plane (see Fig. 9), wherein said cleavage plane is defined by said dispersive element and said imaging optic, said cleavage plane defining a position for said various wavelengths (see column 20, lines 19-23), wherein said microstructured element is capable of being operatively arranged to deflect said first light beam (65a, 65b) from said first direction and at least said second light beam from said second direction (see Fig. 9), said light beams focused via said imaging optic (68) on positions corresponding to their respective wavelength and to said dispersive element (see Fig. 9), wherein said dispersive element is operatively arranged to collinearly unite said light beams (see Fig. 9), wherein the microstructured element comprises mirrored surfaces of different inclinations (see column 22, lines 35-41), wherein the microstructured element comprises a micromirror (see column 19, line 63 to column 20, line 4) or micro-electromechanical mirror (see column 22, lines 35-41). Note, by example only, Fig. 10 along with the associated description thereof.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ricky D. Shafer whose telephone number is (571) 272-2320. The examiner can normally be reached on Mon-Fri. 11:00 to 7:30.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

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like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RDS

January 19, 2010

/Ricky D. Shafer/
Primary Examiner
Art Unit 2872